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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/983,394	08/05/2002	S. Douglas Falls	037033-0314075	1379
909 7590 02/27/2007 PILLSBURY WINTHROP SHAW PITTMAN, LLP P.O. BOX 10500 MCLEAN, VA 22102			EXAMINER BUCHANAN, CHRISTOPHER R	
			ART UNIT 3627	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/27/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

08/983,394

Applicant(s)

FALLS ET AL.

Examiner

Christopher R. Buchanan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 72-91 and 93-132 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 72-91 and 93-132 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. In view of applicant's notice of appeal filed on September 29, 2006, prosecution of this case has been reopened. The after final amendment filed on July 31, 2006 has been entered and the claims submitted with that amendment are considered in this action.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 100-116 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 100-116 recite the limitation "the graphics edge" in line 1 of each claim. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 72-91 and 93-132 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekiguchi et al. (US 5,537,312) alone.

Regarding the independent claims (72, 77, 79, 93, 94, 99, 117, 118, 120, 121, 125, 126, 127, and 132), Sekiguchi discloses an electronic rack labeling system that includes information displayed on a label (91, 92, 95, Figs. 9 and 10) for identifying at least one product for display on a shelf (col. 2 line 35+, col. 8 line 6+) and one or more space indicators (91, 92, dashed lines, Fig. 9) for the product that indicates an area of the shelf for arranging the product (col. 1 line 50+, col. 2 line 48+, col. 5 line 22+), wherein the label is a predetermined length that is coextensive with the horizontal dimension of the shelf area for arranging the product (col. 2 line 25+, col. 5 line 1+), the length of the label potentially being the entire extent of the shelf area horizontal dimension (depending on the amount of information displayed, see col. 5 lines 25-30). The label information could include a variety of product attributes, such as price, name, sale information, color, advertising, promotions, etc. (col. 2 line 35, col. 5 line 53, col. 8 line 29+). The system includes a database (14) with planogram information (plan table, see Fig. 3) for arranging the products on the shelves and a label editor for constructing labels (col. 4 line 10+). The system includes a means for locating and auditing products wherein product information can be inputted and a list of product locations can be generated (col. 7 line 15+). The labels can include machine-readable code, which can be read by hand-held devices (col. 4 line 1+, well-known).

The system of Sekiguchi differs from the claimed invention in that the labels are not shown to be printed labels. However, printed labels are well-known (col. 1 line 15+),

and the manner in which label information is displayed (printed, electronic image, etc.) would be a matter of design choice. Furthermore, given the features of the system disclosed in the rejection above, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the system could be manifested in a variety of different embodiments, such as a display shelf, a computer program, or methods for creating labels, stocking shelves, reducing labor, or locating products. The particular manner in which the invention is embodied would be a matter of design choice.

Regarding the dependent claims, the label can include machine-readable code with various product information (price, color, display location, col. 4 line 45+, see Fig. 2), the information can be accessed from a database (14, Fig. 1), the information pertains to a plurality of products and an indicator is included for each product (see Fig. 9), the system includes a label library and graphical user interface, and the system operates on a computer network. Features such as label printing order and other printing details, establishment selection, establishment subdivision and floorplans, shelf coverings, data allocation, database and library content, and location descriptions would be matters of design choice.

### ***Conclusion***

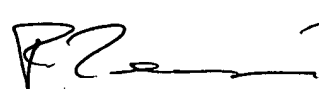
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Buchanan whose telephone number is 571-272-8134. The examiner can normally be reached on Mon.-Fri. 9:00am - 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CB

 2/17/07  
F. RYAN ZEENDER  
PRIMARY EXAMINER